



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,516	05/25/2000	Niranjan Tripathy	FN-3012	9356

7590 08/19/2005

BARTON E. SHOWALTER, ESQ.
BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

EXAMINER

POLLACK, MELVIN H

ART UNIT	PAPER NUMBER
----------	--------------

2145

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/580,516

Applicant(s)

TRIPATHY ET AL.

Examiner

Melvin H. Pollack

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 May 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: see attached office action.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 5/26/05 have been fully considered but they are not persuasive. An analysis of the arguments is provided below.
2. Applicant argues that Low does not expressly disclose that Low's background processes do not "remotely backup information which has been locally stored in ones of said network elements (P. 10, lines 26-29)." Low teaches that the SPAs discussed may be the SCP and Adjunct, but may also be the SLEE/SLP (Fig. 1, #15 in view of col. 10, lines 40-50), which is the embodiment that the examiner utilized. Further, SPAs #12 and #13 serve as monitors and backups for SSP devices (Fig. 1, #10) and CS processing devices (Fig. 4) wherein the data being backed up on SPA #12 includes information from remote components (col. 10, line 58 – col. 11, #20). Because of Low's monitoring hierarchy, the system is one of Low performing backup services for remote devices, and the rejection stands.
3. Applicant argues that Low does not expressly disclose a network element manager, and more specifically that examiner does not expressly point out which element is the network manager, said manager performing the backup processes (P. 11, lines 15-17). The examiner uses the device shown in the claim 1 discussion to perform monitoring and backup for devices #12 and #13, which in Figure 1 is clearly the SLEE (Fig. 1, #15). That said, devices #12 and #13 also act as network managers for SSPs (Fig. 1, #10) and perform backup as well, providing an alternative teaching of these limitations.
4. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the

Art Unit: 2145

teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, applicant argues that Low, Browne and Reed may not be combined (P. 12, line 18; P. 13, line 16; P. 14, line 10).

5. Low is silent in regarding specific protocols and network types within the generic telecomm network. Therefore, one of ordinary skill in the art would have been motivated to go out and learn network protocols to be used in a telecommunications network. Browne and Reed both teach protocols for operations within a telecommunications network, and more specifically disclose methods of transferring data from various network entities within a Low-style telecommunications network, and the necessary protocols therewith to transfer data and to handle telecommunications databases.

6. In the case of Browne, it was brought in to teach OSI networks and RAM/FTAM systems, as shown. The reason that Browne uses this method is so that Browne may connect to already existing networks and systems (col. 1, lines 50-55), such as the known and publicly available data analyzer that the examiner showed as an example. At the time the invention was made, one of ordinary skill in the art would have had to use this protocol or else throw out this legacy equipment. More generally, at the time the invention was made, one of ordinary skill in the art would have used Browne in order to perform Low while using legacy equipment, which would therefore cut down on costs.

Art Unit: 2145

7. The analysis of Reed is similar to that of Browne: the silence of Low regarding protocol necessity triggers the need to learn about various protocols, and Reed teaches the benefits of adding IP and FTP protocol systems. In this case, the addition of such systems includes the desirability factor of improving naming methods for communications entities (col. 81, lines 35-60) that make it easier for entities to identify each other during monitoring processes (col. 81, lines 40-45). At the time the invention was made, one of ordinary skill in the art would have used Reed to learn protocol systems that would improve Low's efficiency in monitoring, particularly since Low requires identifying the status of connections.

8. Therefore, this rejection is maintained and made final for the reasons above.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-4, 8, 12, 16, 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Low (5,910,984).

11. For claim 1, Low teaches a computer and software system (abstract) for managing telecommunication network elements (col. 1, line 1 – col. 3, line 40), comprising:

- a. One or more operator-driven processes (Fig. 10) which monitor and manage (Figs. 8 and 9) network elements (Fig. 1, #12, 13) of a voice and data network (col. 7,

Art Unit: 2145

lines 10-40), in real time (Fig. 4), using at least one telecommunications network control channel (col. 7, line 40 – col. 8, line 10); and

b. Automatically initiated background processes which remotely backup information which has been locally stored in ones of said network elements (col. 10, line 35 – col. 11, line 15; col. 11, line 45 – col. 12, line 5).

12. For claim 2, Low teaches that said background processes launch automatically on a programmed schedule (col. 11, lines 1-15 and 30-35).

13. For claim 3, Low teaches that said background processes also can remotely restore information which had been locally stored on ones of said network elements (col. 11, lines 15-30).

14. For claims 4, 12, and 20, Low teaches a method (abstract) for managing (col. 1, line 1 – col. 3, line 40) a plurality of network elements of a telecommunications network (Figs. 1-4), comprising:

a. Coupling a telecommunications network element manager with a plurality of network elements that provide voice network connectivity, using at least one telecommunications network control channel (Fig. 1);

b. Each network element being operable to store respective local data (Fig. 4) regarding the configuration or operation of the network element (col. 7, lines 45-65);

c. Receiving, from each of the plurality of network elements, the respective local data (col. 10, lines 40 – 60); and

d. Storing the respective local data at a database of the network element manager (Fig. 10, #55).

Art Unit: 2145

15. For claims 8 and 16, Low teaches detecting, at the network element manager, a corrupted network element database associated with one of the plurality of network elements, and restoring the corrupted network element database with configuration data regarding the corrupted network element database, stored at the network element manager (col. 3, line 40 – col. 4, line 50).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 5, 9, 13, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Low as applied to claims 4, 12 above, and further in view of Browne (5,768,353).

18. For claims 5, 9, 13, and 17, Low does not expressly disclose that at least one of the plurality of network elements comprises an OSI network element having an active memory and a random access memory that is coupled for communication with the active memory, further comprising copying configuration files to the random access memory, from the active memory, and copying contents of the random access memory to the network element manager using OSI FTAM protocol, nor does Low disclose the process reversal. Browne teaches a method (abstract) of data collection in voice/data networks (col. 1, line 1 – col. 3, line 60) including data backups of the network (col. 5, line 25 – col. 6, line 8) using the RAM/FTAM method (col. 7, lines 10-50) for an OSI network (col. 9, lines 10-25 and 55-60) in the manner described above (Fig. 13; col. 15, lines 20-30). At the time the invention was made, one of ordinary skill in the

Art Unit: 2145

art would have used the Browne method in Low in order to utilize legacy systems (col. 9, lines 34-55).

19. Claims 6, 10, 14, 18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Low as applied to claims 4, 12 above, and further in view of Reed et al. (5,862,325).

20. For claims 6, 10, 14, 21, Low does not expressly disclose that at least one of the plurality of network elements comprises an IP gateway network element having an active memory and a random access memory that is coupled for communication with the active memory, further comprising copying configuration files to the random access memory, from the active memory, and copying contents of the random access memory to the network element manager using FTP protocol, nor does Low expressly disclose the reversal process. Reed teaches a method (abstract) of handling databases in the voice/data environment (col. 1, line 1 – col. 10, line 10) for which backup processes have been used using the above method (col. 93, lines 15-30; col. 114, lines 10-35). At the time the invention was made, one of ordinary skill in the art would have used the Reed method in Low in order to utilize better addressable attributes (col. 81, lines 40-45).

21. Claims 7, 11, 15, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Low as applied to claims 4, 12 above, and further in view of Browne and Reed.

22. For claims 7, 11, 15, and 19, they are a combination of claims 5 and 6, or of related claims as shown above. Hence, they are rejected for the reasons above.

Art Unit: 2145

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They regard the state of the art owned by Fujitsu at the time of the invention.

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H. Pollack whose telephone number is (571) 272-3887. The examiner can normally be reached on 8:00-4:30 M-F.

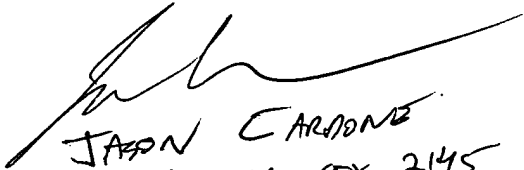
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (571) 272-6159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2145

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MHP

11 August 2005


JASON CARBONE
ASST. DIR. EX 2145